

**BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY**

Meeting Date: April 19, 2006 - KW

Division: Growth Management

Bulk Item: Yes X No

Department: Growth Management

Staff Contact Person: Jerry Sanders, Esq.

AGENDA ITEM WORDING:

Discussion, guidance to Staff and conceptual approval of proposed agreement to redevelop *Seahorse Trailer Park* and *Rowell's Marina*.

ITEM BACKGROUND:

Boca Developers, LLC are the owners of *Rowell's Marina* in Key Largo and recently purchased the *Seahorse Trailer Park* on Big Pine Key. In a proposed "380 Agreement" they propose to redevelop *Seahorse Trailer Park* as 100 multi-family affordable housing and donate them to the County in exchange for the transfer of 130 market rate development rights to the *Rowell Marina* property, plus a bonus of 5 market rate ROGO allocations.

PREVIOUS RELEVANT BOCC ACTION:

None.

CONTRACT/AGREEMENT CHANGES:

N/A

STAFF RECOMMENDATIONS:

Grant authority for the County Administrator, Growth Management Staff and the County Attorney to negotiate with *Boca Developers, LLC* and present a proposed Agreement to the Development Review Committee and the Planning Commission for recommendation to the Board of County Commissioners.

TOTAL COST: N/A

BUDGETED: Yes No

COST TO COUNTY: N/A

SOURCE OF FUNDS:

REVENUE PRODUCING: Yes No

AMOUNT PER MONTH **Year**

APPROVED BY: County Atty X OMB/Purchasing Risk Management

DIVISION DIRECTOR APPROVAL:


JERRY D. SANDERS, ASSISTANT COUNTY ATTORNEY for:
RONDA NORMAN, ACTING GROWTH MANAGEMENT DIRECTOR

DOCUMENTATION: Included X Not Required

DISPOSITION:

AGENDA ITEM #

3/23/06

Properties:

RE#'s Rowell's – 00508200-000000, 00508210-000000

Seahorse – 00300180-000000, 00300090-000000, 00300590-000000, 00300670-000000

FLORIDA STATUTE 380.032(3)
SETTLEMENT AGREEMENT

THIS AGREEMENT is entered into between Respondents, MONROE COUNTY and DEPARTMENT OF COMMUNITY AFFAIRS (hereinafter called DCA) and Petitioner, BOCA DEVELOPERS, LLC (hereinafter called the Petitioner) as a complete and final settlement of all claims raised pursuant to Section 380.032(3) of Florida Statutes.

WHEREAS, the DCA is the state land planning agency having the power and duty to exercise general supervision of the administration and enforcement of Chapter 380, Florida Statutes, which includes provisions related to Areas of Critical Concern; and

WHEREAS, Petitioner is the owner of property known as Rowell's Marina consisting of approximately 8.1 acres located in unincorporated Monroe County, Florida, with an approximate street address of 104450 Overseas Highway, Key Largo, Florida 33037, the legal description of which is attached and incorporated herein in **Exhibit AA** and property known as Seahorse Trailer Park located in Big Pine Key, Monroe County, Florida with an approximate street address of 701 County Road, Big Pine Key, the legal description of which is attached as **Exhibit AB**; and

WHEREAS, the Petitioner proposes to remove and demolish approximately 130 permanent residential dwelling units from and restore parts of the Seahorse Trailer Park property to a natural

3/23/06

state and then construct a multi-family 100-unit affordable housing complex which is code compliant to be transferred to the ownership of Monroe County, Florida, with the 130 market rate ROGO allocations from the Seahorse property transferred to the Rowell's Marina Property; and

WHEREAS, the Petitioner proposes to construct 100 affordable housing units on the Seahorse Trailer Park in the Lower Keys, in consideration of a bonus of up to 5 market rate ROGO allocations to be developed on the Rowell's Marina site; and

WHEREAS, the Petitioner's proposal will lessen hurricane evacuation loads from the Lower Keys; and

WHEREAS, the Petitioner proposes to use the Rowell's Marina property for residential development; and

WHEREAS, Monroe County is the local government with jurisdiction to issue development orders in Key Largo, Monroe County, Florida; and

WHEREAS, a controversy has arisen between the DCA, the Petitioner and Monroe County regarding the use and development of the Rowell's Marina property and the number of legally established units recognized as being located on the Seahorse Trailer Park; and

WHEREAS, the DCA has authority, pursuant to Section 380.032(3), Florida Statutes (2003) to enter into agreements with any landowner, developer or governmental agency as may be necessary to effectuate the provisions and purposes of Chapter 380 or any rules promulgated thereunder; and

WHEREAS, the parties hereto wish to avoid the expense and delay of lengthy litigation and to resolve the conflict by amending the Land Development Regulations, 2010 Comprehensive Plan, and Future Land Use Maps, (hereinafter called LDR's), to incorporate new terms and conditions set forth therein, which terms and conditions effectuate the provisions and purposes of Chapter 380 of Florida

3/23/06

Statutes, and it is in the best interest of Monroe County to do so.

NOW THEREFORE, in consideration of the terms and conditions set forth hereafter and as the full, complete and final settlement of all claims arising out of the controversy set forth above, the parties agree as follows:

1. **Representations.** The representations set forth above are incorporated herein and are essential elements hereof.

Project Description

2. In consideration of the above, Boca Developers will construct a 100-unit multi-family complex consisting of 20 studio units at approximately 700 sq. ft., 30 one-bedroom units at approximately 900 sq. ft., and 50 two-bedroom units at approximately 1000 sq. ft. on the Seahorse Trailer Park, together with the existing waste water treatment facility, existing laundry facilities, and development of amenities to include a pocket park and landscaping, to be donated to Monroe County upon completion. Construction to begin within 60 days of approval of construction plans and issuance of a building permit. An application for said building permit and plans for the said development shall be submitted to Monroe County within 60 days after the acceptance of this Agreement and amendment to the Future Land Use Maps (FLUM) to reflect Residential High (RH) and zoning to Urban Residential (UR). In addition, Petitioner will donate the land associated with the Seahorse Trailer Park for the recapture of "H" (habitat) values as identified in the Big Pine Key/No Name Key Master Plan.

3. Within 60 days after execution of this agreement and amendment to the Future Land Use Maps (FLUM) to reflect Residential High (RH) and zoning to Urban Residential (UR), the Petitioner shall commence to remove the existing dwelling units from the Seahorse property and shall

3/23/06

obtain demolition permits for and commence to demolish any permanent structures. The development rights and ROGO exemption allocations from the demolished units shall be transferred to the Rowell's Marina property to build up to 130 market rate units. The Rowell's Marina property shall be granted zoning of UR with a FLUM of RH which would allow for the described intended Development. The said development is subject to approval of building plans and site plans. Upon transfer of the development rights and ROGO exemptions, a restrictive covenant shall be placed upon the Seahorse property prohibiting further development. If 130 market rate units are not developed, the remaining units will be available to the Petitioner for future development. The Seahorse Trailer Park property shall be granted zoning of UR (FLUM to remain the same) which would allow for the described intended development.

4. The development of affordable housing at the Seahorse Trailer Park will be constructed parallel with the Rowell's Marina project.

5. DELETED

6. **Further Proceedings.** When Monroe County approves the site plans described in this Agreement, the DCA shall, within 15 working days of receipt thereof, approve appropriate paperwork to release the properties for the described development to proceed.

7. **Entirety of Agreement.** The parties further agree that this Settlement Agreement contains the entire and exclusive agreement among the parties and may not be modified in any manner except by an instrument in writing and signed by the parties.

8. **Duplicate originals.** This Settlement Agreement may be executed in any number of originals, all of which evidence one agreement, and only one of which may be produced for any purpose.

3/23/06

9. **Enforcement.** In the event of a breach of this Agreement or failure to comply with any condition of it, or if it has been based upon materially inaccurate information, the DCA may enforce this Agreement as provided in Sections 380.05 and 380.11, Florida Statutes.

10. **Scope of Authority.** This Agreement affects the rights and obligations of the parties under Chapter 380, Florida Statutes. It is not intended to influence or determine the authority or decisions of any other state or local government agency in issuance of any other permits or approvals that might be required by state law or local ordinance for any development authorized by this Agreement, or restrict the DCA's authority with regard to future development orders for the Project. It is not intended to limit the authority of the DCA with regard to any development other than the Project.

11. **Release; Costs and Attorney Fees.** Each party hereto releases the other from any and all claims and demands arising out of the subject dispute. Each party shall bear its own costs and attorney fees incurred in connection with this matter.

12. **Date of Execution.** The date of execution of this Agreement shall be the date that the last party signs and acknowledges this Agreement.

13. **Recordation.** This Agreement shall run with the land and shall bind, and the benefit shall inure to, respectively, the Petitioner, the DCA and Monroe County, Florida, their respective successors and assigns. The Petitioner shall record this Agreement in the Public Records of Monroe County, Florida, and shall provide a certified copy of the recorded Agreement to the DCA within 15 days after receipt of the executed Agreement from the DCA.

IN WITNESS WHEREOF, the parties, by and through their respective undersigned duly

3/23/06

authorized representatives, have executed this Agreement on the dates and year below written.

WITNESSES:

BOCA DEVELOPERS, LLC

Witness as to Boca Developers, LLC

By: _____

Its: _____

MONROE COUNTY, FLORIDA

Witness as to Monroe County, Florida

By: _____

Its: _____

DEPARTMENT OF COMMUNITY AFFAIRS

Witness as to the Department

By: _____

Its: _____

STATE OF FLORIDA

COUNTY OF _____

The foregoing instrument was acknowledged before me this ____ day of February, 2006, by
_____, as _____ of BOCA DEVELOPERS, LLC who is
personally known to me or who has produced _____ as identification.

3/23/06

Notary Public

Print Name of Notary Public

My Commission Expires:

STATE OF FLORIDA
COUNTY OF MONROE

The foregoing instrument was acknowledged before me this ____ day of March, 2006, by
_____ as _____ of MONROE COUNTY, FLORIDA, who is
personally known to me or who has produced _____ as
identification.

Notary Public

Print Name of Notary Public

My Commission Expires:

STATE OF FLORIDA
COUNTY OF _____

The foregoing instrument was acknowledged before me this ____ day of March, 2006, by
_____ as _____ of the DEPARTMENT OF COMMUNITY
AFFAIRS, who is personally known to me or who has produced _____ as
identification.

Notary Public

Print Name of Notary Public

My Commission Expires: